THE HON'BLE SRI JUSTICE C.V. RAMULU

Wednesday, the 8th day of August,2007

W.P.No.30261 of 1998

Between:-

Smt. Malathibai … Petitioner

and

The Presiding Officer,
Additional Industrial Tribunal-cum-
Labour Court, 1st Floor,
Chandravihar Building,
M.J.Road, Hyderabad and another … Respondents

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ORAL ORDER:

This Writ Petition is filed seeking a Certiorari to call for the records relating to the Award dated 22-12-1997 made in I.D.No.73 of 1996 on the file of Additional Industrial Tribunal-cum-Additional Labour Court, Hyderabad and to quash the same as arbitrary and illegal.

Petitioner is the worker and the 2nd respondent is the Management. It appears, when the services of the petitioner were terminated orally with effect from 3-2-1996, she raised a dispute under Section 2-A(2) of the Industrial Disputes Act,1947 (for short 'the Act') before the Additional Industrial Tribunal-cum-Additional Labour Court, Hyderabad. It was her contention that she had put in 240 days of service in the calendar year preceding the date of her termination and the respondent-Management had violated the mandatory provisions of Section 25-F of the Act. The Management filed a counter before the Tribunal denying the allegations made in the claim petition and asserted that the petitioner did not work for 240 days and she committed theft and was arrested by the Police.

Before the Tribunal, petitioner examined herself as W.W.1 and marked documents – Exs.W1 and W2. On behalf of the respondent-Management, M.W.1 (N.Madhu Venkateshwar) was examined, however, no documents were marked. After considering both oral and documentary evidence, the Tribunal came to the conclusion that the petitioner had put in more than 240 days of continuous service as on the date of termination of her service and the Management had

violated the provisions of Section 25-F of the Act; as such, the termination is arbitrary and illegal; however, held that even if her services are taken as of casual nature, she is entitled to notice pay, though not entitled to reinstatement and thus directed the respondent-Management to pay 1½ months wages in addition to service compensation of 3 months wages. Challenging the same, the present Writ Petition is filed.

In spite of granting several adjournments, none appears for the respondents.

The finding that the petitioner had put in more than 240 days of continuous service as on the date of termination of her services and there is a violation of provisions of Section 25-F of the Act has attained finality. Once this is so, petitioner is entitled for reinstatement with continuity of service and all attendant benefits, since there was no delay in approaching the Tribunal and raising the I.D. by her.

I am of the opinion that the Tribunal while holding that there is a violation of Section 25-F of the Act and the petitioner had put in more than 240 days in the calendar year preceding the date of her termination, ought not to have passed an Award just awarding 1½ months wages in addition to service compensation of 3 months wages. I am of the view that the petitioner is entitled for all the benefits as per law. May be, petitioner was charged with a charge of theft etc., but, it is always open for the Management to conduct a detailed enquiry into the matter and pass appropriate orders, as per law. Under these circumstances, the impugned Award is liable to be modified and is modified to be read as under:

> "The petitioner shall be reinstated with continuity of service and all attendant benefits and also back wages from the date of termination till the date of reinstatement. The respondent-Management is at liberty to conduct an enquiry into the alleged charge of theft against the petitioner, if it so desires".

Accordingly, the Writ Petition is allowed. No order as to costs.

08-8-2007

prk